

1 KAREN P. HEWITT  
United States Attorney  
2 LAWRENCE A. CASPER  
Assistant United States Attorney  
3 California State Bar No. 235110  
Federal Office Building  
4 880 Front Street, Room 6293  
San Diego, California 92101-8893  
5 Telephone: (619) 557-7455/(619)235-2757 (Fax)  
[Lawrence.casper@usdoj.gov](mailto:Lawrence.casper@usdoj.gov)  
6

7 Attorneys for Plaintiff  
United States of America  
8

9 UNITED STATES DISTRICT COURT  
10 SOUTHERN DISTRICT OF CALIFORNIA

11 UNITED STATES OF AMERICA,	)	Criminal Case No. 07CR3346-H
	)	
12 Plaintiff,	)	DATE: January 28, 2008
	)	TIME: 2:00 p.m.
13 v.	)	
	)	GOVERNMENT'S MOTIONS FOR
14 JOSE LUIS LOPEZ-LOPEZ,	)	
	)	(1) RECIPROCAL DISCOVERY; AND
15 Defendant.	)	(2) FINGERPRINT EXEMPLARS

16 Plaintiff, UNITED STATES OF AMERICA, by and through its counsel, KAREN P. HEWITT,  
17 United States Attorney, and LAWRENCE A. CASPER, Assistant United States Attorney, hereby moves  
18 the court for an order granting the Government's Motions for Reciprocal Discovery and for Fingerprint  
19 Exemplars.

20 //

21 //

22 //

23 //

24 //

25 //

26 //

27 //

28 //

**I****GOVERNMENT’S MOTION TO COMPEL RECIPROCAL DISCOVERY****A. All Evidence That Defendant Intends To Introduce In His Case-In-Chief**

Since the Government will honor Defendant’s request for disclosure under Rule 16(a)(1)(E), the Government is entitled to reciprocal discovery under Rule 16(b)(1). Pursuant to Rule 16(b)(1), the Government requests that Defendant permit the Government to inspect, copy and photograph any and all books, papers, documents, photographs, tangible objects, or make copies or portions thereof, which are within the possession, custody, or control of Defendant and which Defendant intends to introduce as evidence in his case-in-chief at trial.

The Government further requests that it be permitted to inspect and copy or photograph any results or reports of physical or mental examinations and of scientific tests or experiments made in connection with this case, which are in the possession and control of Defendant, which he intends to introduce as evidence-in-chief at the trial, or which were prepared by a witness whom Defendant intends to call as a witness. The Government also requests that the Court make such order as it deems necessary under Rules 16(d)(1) and (2) to ensure that the Government receives the reciprocal discovery to which it is entitled.

**B. Reciprocal Jencks – Statements By Defense Witnesses**

Rule 26.2 provides for the reciprocal production of Jencks material. Rule 26.2 requires production of the prior statements of all witnesses, except a statement made by Defendant. The time frame established by Rule 26.2 requires the statements to be provided to the Government after the witness has testified. However, to expedite trial proceedings, the Government hereby requests that Defendant be ordered to provide all prior statements of defense witnesses by a reasonable date before trial to be set by the Court. Such an order should include any form in which these statements are memorialized, including but not limited to, tape recordings, handwritten or typed notes and reports.

**II****GOVERNMENT’S MOTION FOR FINGERPRINT EXEMPLARS**

Absent a written stipulation that the fingerprints taken at the time of Defendant’s arrest in the instant case are indeed Defendant’s, the Government requests that Defendant be ordered to make himself

1 available for fingerprint exemplars at a time and place convenient to the Government's fingerprint  
2 expert. See United States v. Kloepper, 725 F. Supp. 638, 640 (D. Mass. 1989) (the District Court has  
3 "inherent authority" to order a defendant to provide handwriting exemplars, fingerprints, and  
4 palmprints). Because the fingerprint exemplars are sought for the sole purpose of proving  
5 Defendant's identity, rather for than investigatory purposes, the Fourth Amendment is not implicated.  
6 See United States v. Garcia-Beltran, 389 F.3d 864, 866-68 (9th Cir. 2004) (citing United States v.  
7 Parga-Rosas, 238 F.3d 1209, 1215 (9th Cir. 2001)). Furthermore, an order requiring Defendant to  
8 provide fingerprint exemplars does not infringe on Defendant's Fifth Amendment rights. See  
9 Schmerber v. California, 384 U.S. 757, 770-71 (1966) (the Fifth Amendment privilege "offers no  
10 protection against compulsion to submit to fingerprinting"); Williams v. Schario, 93 F.3d 527, 529 (8th  
11 Cir. 1996) (the taking of fingerprints in the absence of Miranda warnings did not constitute testimonial  
12 incrimination as proscribed by the Fifth Amendment).

13 DATED: January 18, 2008

14 Respectfully Submitted,

15 KAREN P. HEWITT  
16 United States Attorney

17 s/Lawrence A. Casper

18 LAWRENCE A. CASPER  
19 Assistant United States Attorney  
20 Attorneys for Plaintiff  
21 United States of America  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

JESUS LUIS LOPEZ-LOPEZ,

Defendant.

Case No. 07CR3346-H

CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED THAT:

I, Lawrence A. Casper, am a citizen of the United States and am at least eighteen years of age. My business address is 880 Front Street, Room 6293, San Diego, California 92101-8893.

I am not a party to the above-entitled action. I have caused service of **GOVERNMENT'S NOTICE OF MOTION AND MOTION FOR RECIPROCAL DISCOVERY AND MOTION TO COMPEL FINGERPRINT EXEMPLARS** on the following parties by electronically filing the foregoing with the Clerk of the District Court using its ECF System, which electronically notifies them.

1. Knut S. Johnson

I hereby certify that I have caused to be mailed the foregoing, by the United States Postal Service, to the following non-ECF participants on this case:

1. None

the last known address, at which place there is delivery service of mail from the United States Postal Service.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 18, 2008.

s/ Lawrence A. Casper

LAWRENCE A. CASPER